

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, AUGUST 13, 2004  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:07 a.m. The following were in attendance:

**MEMBERS**

Mr. Peter Young	Mr. Timothy Johns
Ms. Kathryn Inouye	Mr. Ted Yamamura
Mr. Gerald DeMello	Mr. Ron Agor
Mr. Toby Martyn (arrived 9:50 a.m.)	

**STAFF**

Ms. Dede Mamiya, Land	Mr. Sam Lemmo, OCCL
Mr. Randy Awo, DOCARE	Mr. Paul Conry, DOFAW
Mr. Randy Kennedy, DOFAW	Mr. Derrick Lanning, DOT

**OTHERS**

Mr. Russell Tsuji, Deputy Attorney General	
Ms. Linnel Nishioka, M-1	Mr. John Luuwai, C-1
Mr. Bill Moore, D-6	Mr. Buzz Paxon, D-6
Mr. Peter Lenhart, D-4	Mr. Scot Urada, K-1
Mr. Gordon Kamai, K-3	Mr. Lee Sichter, C-4
Mr. Ed Misaki, C-3	

{Note: language for deletion is [bracketed], new/added is underlined}

**Item A-1: Minutes of May 24, 2004**

The Board made the following changes:

Page 2 under “Others” first column, twentieth line and all other reference

**Ms. Healani [~~Thrimbaugh~~] Thremblatte, D-5**

Page 2 under “Others” second column, sixth line and all other reference

**Mr. Allan [~~Kenneth~~] Kennett**

Page 2 last paragraph, fifth line,

**“The first phase of the project will be to [~~drench~~] dredge. . . Mr. Thompson also spoke of future plans, which would include the development of a private [~~marine~~] marina on the adjacent land.”**

Page 3, first paragraph, last sentence.

**“Mr. Mossman asked for a full accounting of the monies released by the Governor and if there exists a balance in the account.”**

Page 3, second paragraph, first sentence.

**“Rolan[~~d~~] Sagum then testified representing Kikiola Land Company . . .”**

Page 6, first paragraph, twenty-first line.

**“In terms of beach access PMRF has opened Major’s [~~by~~] Bay seven days a week from 6 a.m. to 30 minutes after sunset.”**

Page, 6 last line.

**“He admitted the Navy has not done a good job [~~is~~] in communicating with the public as to . . . .”**

Page 7, third paragraph, third line.

**“. . . opportunities, research work and community support the Navy [~~have~~] has shown to the residents of Kauai.”**

Page 7, fourth paragraph, seventh line.

**“She reminded the Board of their constitutional obligation to the people of the State and that obligation should come before the interest of any deferral agencies.”**

Page 12, second paragraph, first line.

**“Wayne Katayama a farmer and Department of Agriculture Board Member on the Agribusiness Development Corporation and a representative of the North Shore Business Council spoke in support of the Navy’s request.”**

Page 12, fifth paragraph.

**“The Board confirmed with Mr. Kennett that he has read the easement document and is aware of the 30-day written notice before burning crops and is in agreement with the terms of the easement document.”**

Page 13, second paragraph, tenth line.

**“ . . . Items and toying with setting Kauai up as a target for [tacks] attacks, sabotage or accidents.”**

Page 15, first paragraph.

**“Ms. Mortimer indicated if the Navy is allowed to expand it will make the island of Kauai and its people a target for other countries.”**

Page 15, fourth paragraph, third line.

**“ . . people [has] have farmed the lands for hundred of years.”**

Page 15, sixth paragraph, third line.

**“She notes when PMRF has conferences on the island they bring in a lot of tourists and tourist dollars to Kauai.”**

**Unanimously approved as amended (Johns/Inouye).**

**Item A-2: Minutes of June 18, 2004**

**The Board made the following changes**

Page 4, Item E-2, second paragraph, last line.

**~~[Member McCrory and Yamamura noted they did not understand what State Parks is trying to accomplish with regards to the adjustment of rent every two years.]~~**

Page 9, second paragraph.

**“Member Inouye questioned Mr. Holcomb how long has he been a member of the Board to which replied a year [in] and a half.”**

Page 11, fifth paragraph, tenth line.

**“ . . . was determined by Ms. Lake) but there were still others who were not [bale] able to view the property.”**

Page 14 third paragraph.

**“The Board questioned Mr. Lemmo as to how he arrived at a figure of \$300 per tree.”**

Page 14, Recommendation 2, last sentence.

**“~~[Mr.]~~ Mrs. is also fined \$1,000.”**

**Unanimously approved as amended (Johns/Inouye).**

**Item A-3: Minutes of July 30, 2004**

Page 1 under “Members”

**Add Mr. Ron Agor**

Page 4, Item M-4

**“Unanimously approved as submitted (Johns/Inouye).”**

Page 5 second paragraph.

**~~[Member Yamamura indicated for the record Representative Bob Nakasone contacted him to extend support for staff’s recommendation.]~~**

Page 5, Item K-2, add the following as the third paragraph.

**“Member Yamamura indicated for the record Representative Bob Nakasone contacted him to extend support for staff’s recommendation.”**

Page 5, Item K-2, first paragraph second sentence.

**“In the approval process the Board included a condition that required the applicant to initiate[~~d~~] construction within one year . . .”**

Page 6, Item K-1, first paragraph, last sentence.

**“Today representatives from Damon and the National Park Services [is] are here to brief the Board on the second phase of the restoration plan.”**

Page 9, last paragraph.

**“Robert Reed owner of Lot 13A2 told the Board he believes the law (Act 261) did not specify that [he] the owner of the pier application had to be the abutting fee property owner.”**

Page 10 first paragraph.

**“Peter Lenhart, attorney for the Thayer’s testified before the Board. Mr. Lenhart gave the Board a brief overview on how the easement was created. He noted there were two easements both of which were different. He pointed out the right-of-way was for beach access only and not for use of the pier. Mr. Lenhart informed the Board the Thayer’s propose[s] to cut off the 1.89 feet that extends onto State waters thereby not requiring a State permit. He made it known the Thayer’s have concerns with regards to their liability and having a say in what they can do with their land.”**

Page 12 Item D-28.

Add: **“Member Inouye left the meeting.”**

**Unanimously approved as amended (Johns/Yamamura).**

**Item M-1: Assignment of State License No. 124 from Tosco by Mesne Assignments Involving Corporate Reorganizations to Conocophillips Company; Consent to Surrender of the Remaining Premises Covered by License No. 124 by Conocophillips Company; and Issuance of Revocable Permit to Midpac Petroleum, LLC (Kawaihae Harbor).**

Derrick Lanning representing the Department of Transportation recommended the Board approve the assignment of State License No. 124 from Tosco by Mesne assignments involving corporate reorganization to Conoco Phillips.

Ninnel Nishioka was present to answer any questions.

**Unanimously approved as submitted (DeMello/Johns).**

**Item C-1: Enforcement Action Involving Commercial Activity at 'Ahihi-Kina'u Natural Area Reserve, Maui.**

Paul Conry, Administrator of the Division of Forestry and Wildlife (DOFAW) and Randy Kennedy, NARS Program Manager appeared before the Board. Mr. Kennedy made is known the subject location is on Maui’s southern coast below Kihei and Makena and is part of the Natural Area Reserves System (NARS). Mr. Kennedy went over the history of Ahihi-Kinau. He reminded the Board over the past year, public outcry over the increased commercial activities occurring at Ahihi-Kinau has prompted the Department

into taking some action. Mr. Kennedy went on to describe some of the concerns expressed by the public with regards to the increase in commercial activities taking place. In an effort to provide additional management of the area, the Department applied for funding from the Hawaii Tourism Authority (HTA). On April 5, 2004, at the Natural Area Reserves Commission meeting the Department presented a conceptual proposal for a concession agreement for limited commercial kayak use at Keone'o'io and Ahihi-Kinau. After much discussion the Commission voted against issuing a concession agreement. Furthermore the Commission formally requested the Department make enforcement of the rules that govern public use in the subject area a high priority for DOCARE staff on Maui. Mr. Kennedy made it known on April 14, 2004, the Department sent out letters to kayakers informing them that the rule prohibiting commercial activities at the subject area would be enforced. On the following weekend DOCARE officers were at Ahihi-Kinau handing out cease and desist orders. A cease and desist order was given to Mr. Luciano. In summary, Mr. Kennedy noted that at this time it is not possible to identify the damage done to the natural resources caused by Mr. Luciano's operation, however DOFAW reserves the right to request monetary damages for degradation caused by illegal commercial operations in future enforcement actions. Mr. Kennedy recommended the Board find that Mr. Luciano violated HAR §13-209-7(13) and authorize a fine of \$2,500 to be assessed against Mr. Luciano.

Randy Awo, Division of Conservation and Resource Enforcement (DOCARE) Maui Branch Chief indicated the charges against Mr. Luciano were based on one of three incidents that transpired on April 18, 2004. On that morning, Mr. Luciano was observed entering the checkpoint at the subject location. He was given a cease and desist notice by a DOCARE officer indicating the area was closed to commercial activity. Mr. Luciano acknowledged he was aware of the closure. Mr. Awo went on to describe three incidents that took place that day in which Mr. Luciano took individuals out to kayak at Ahihi-Kinau. The first incident occurred at 8:30 a.m. where a couple informed DOCARE they paid Mr. Luciano \$20 as a deposit for a five-hour tour with a cost of \$69 per person. After talking with the DOCARE officer and giving a statement, the couple decided to leave the area and forfeit their \$20 deposit. At 8:45 a.m. a second incident occurred in which Mr. Luciano was observed asking individuals in the parking lot and on the beach if they wanted to go on a kayak ride. When approached by DOCARE, Mr. Luciano claimed to be offering free kayak rides. A third incident took place at 1:10 p.m. at which time Mr. Luciano was observed exiting the ocean at Ahihi-Kinau with an elderly couple, a young child and two females. The elderly couple refused to provide any information beyond their name. Further investigation revealed they had a rental car from Alamo and they were staying at the Maui Prince Hotel in Makena. When DOCARE interviewed the two women they could not substantiate that commercial activities took place at Ahihi-Kinau.

The Board made reference to the 1:10 p.m. incident in which staff's submittal stated that one of the females indicated she was a massage therapist who exchanged a massage for Mrs. Luciano for the kayak ride. The Board noted this was in kind services and questioned why staff did not pursue this violation.

Ralph Luciano informed the Board he personally made sure no one has touched the coral in the subject area. He spoke of the vulgar language he encountered while dealing with some of the department's personnel. Mr. Luciano questioned the department enforcing protection of the subject area. He spoke of the amount of trash at the park and the occurrences of theft. He made it known he has not received monetary compensation for the kayak tours he has done. He believes the Department has a lot of prejudice towards him by bringing forth this action as they have no written proof he has collected money for kayak tours. Mr. Luciano told the Board he wants to challenge the fines recommended by staff.

The Board informed Mr. Luciano of his right to a Contested Case Hearing and what was involved in this process. The Board told Mr. Luciano what would be involved on his part to proceed with a contested case hearing. Mr. Luciano was informed to speak to Randy Kennedy of DOFAW as he must submit the necessary paperwork requesting a contested case hearing within ten days.

Mr. Luciano requested a contested case hearing.

Mr. John Luuwai came forward to testify but was told by the Chairperson that they were not able to accept additional testimony as Mr. Luciano has requested a contested case hearing.

**Mr. Luciano requested a Contested Case Hearing.**

The Board took a recess at 9:47 a.m. and resumed the meeting at 9:50 a.m.

**Item D-6: Cancellation of Governor's Executive Order No. 1965; Issuance of Term, Non-Exclusive Easement for Temporary Underground Sewer line; Grant of Perpetual, Non-Exclusive Easement to Waimea Wastewater Company, Inc. for Sewer Line Purposes, Lalamilo, South Kohala, Hawaii, TMK: (3) 6-7-03:20.**

Ms. Mamiya communicated that the Waimea Wastewater Company, Inc. (WWCI), is a public utility company that currently operates a private wastewater system. WWCI is requesting a 5-year term, non-exclusive easement for a temporary underground sewer line at the subject site. Ms. Mamiya disclosed that Parker Ranch has plans to develop the surrounding area as a residential development and has been in contact with staff to discuss negotiating a land exchange. Parker Ranch has expressed interest in acquiring the reservoir and including it as part of its development. Ms. Mamiya recommended the Board authorize the issuance of a term, non-exclusive easement, a perpetual, non-exclusive easement and immediate construction right-of-entry to Waimea Wastewater Company, Inc., covering the subject area.

Bill Moore a Planning Consultant working with Parker Ranch and Buzz Paxton, Vice President of Waimea Wastewater Company came forward to offer testimony. Mr. Moore conveyed that Parker Ranch is requesting permission to level the reservoir site. He told

the Board if there is a land exchange he asked that Parker Ranch not be penalized for the possible added value by removing the reservoir.

Ms. Mamiya noted she is in agreement with this condition.

**The Board amended the Recommendation Section by adding a new paragraph 3 to read as follows:**

**“3. Authorize the cancellation of Governor’s Executive Order No. 1965.”**

**Unanimously approved as amended (DeMello/Johns).**

**Item D-4: Consent to Assign Non-Exclusive Easement bearing General Lease No. S-5340, Midway Resources, Inc., Assignor, to Sunset View Properties, LLC, Assignee, Pupukea-Paumalu Beach Lots, Koolauloa, Oahu, TMK: (1) 5-9-20:49 seaward.**

Ms. Mamiya briefed the Board and recommended the Board consent to the assignment of Grant of Non-Exclusive Easement bearing General Lease No. S-5340.

Peter Lenhart appearing on behalf of the applicant informed the Board that Midway Resources Unlimited was the original grantee of the subject easement and since then there have been four transfers to the same owner. Through this process, Mr. Lenhart hopes to clear up the title.

**The Board amended the Title, Applicant and Recommendation Section to recognize and consent to the tree assignments: 1) From Midway Resources, Inc. to David J. Kahn Trust, 2) From David J. Kahn Trust to David J. Kahn, and 3) From David J. Kahn to David H. Kahn Trust. All references to Sunset View Properties, LLC, were deleted.**

**Unanimously approved as amended (Inouye/Agor).**

**Item K-1: Conservation District Use Application (CDUA) MA-3183 Hana Highway Rockfall Mitigation, Hana, Maui, TMK: (2) 1-1-001:044.**

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands let it be known the proposed project is located between Mile Post 11.05 and 11.31 of Hana Highway. He went on to say the proposed use is to mitigate rock fall events by installing drape wire meshing along the mauka slope of the hillside to prevent falling debris from entering the traveled roadway. The proposed action will be similar to the rockfall mitigation utilized along the Makapuu Point area on Oahu. He further stated the Department of Transportation will be using Tecco 65 or an equivalent mesh that is made of high strength steel, which will have a black PVC coating to soften any visual appearances after construction. Mr. Lemmo recommended the Board approve this



application for Rockfall Mitigation located at Honomanu, District of Hana on the island of Maui.

Scot Urada, Project Manager for the State Highways Division of the Department of Transportation disclosed that his department has appropriated the funds for this project.

**Unanimously approved as submitted (Yamamura/DeMello).**

**Item K-3: Enforcement File No. HA-03-11, Regarding Alleged Unauthorized Grading and Grubbing, and Landscaping on Private Lands TMK: (3) 2-7-008:063 Owned by Curtis Kamai 25% 47737 Miami Highlands Drive, Oakhurst, California, 93644, Gordon Kamai 25%, Keif Kamai 25%, Robert Kamai 25%, Aleamai and Kalaoa, South Hilo, Island of Hawaii.**

Mr. Lemmo conveyed Curtis, Gordon, Keif and Robert Kamai currently own the subject parcel equally. He went on to say that OCCL received a complaint regarding agricultural work being done on conservation land without a permit. Staff completed a site inspection of the subject parcel. Staff indicated around 1989 the landowners leased the subject parcel to Samuel Kumukahi who cleared the old sugar cane and brush and made landscaped improvements. Mr. Lemmo made it known the improvements consist of two thirds of the subject parcel. He also let it be known that Mr. Kumukahi has since passed away. Mr. Lemmo recommended the Board find the landowners in violation of Chapter 183C HRS and Chapter 13-5, HAR.

Gordon Kamai, one of the property owners came forward and apologized for violating Conservation District regulations. Mr. Kamai pointed out his great grandfather gave the subject lands to him and his three brothers. He indicated in the past the land was used for growing sugar cane. Mr. Kamai admitted he gave permission to his relatives to clear the land for a garden in hopes of stopping any unwanted illegal activity.

**The Board amended the following Recommendations:**

**1. Condition 1)**

**“The Landowners violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5 Hawaii Administrative Rules (HAR), in two (2) instances by failing to obtain the appropriate approvals for grubbing and grading and landscaping within the Conservation District. The landowners are fined a total of [~~\$4,000~~] \$1,000 for two (2) Conservation District violations;”**

**2. Condition 3)**

**The landowners shall pay all fines [~~(total \$5,500)~~] (total \$2,500) within thirty (30) days of the date of the Board of Land and Natural Resources action:”**

**Unanimously approved as amended (DeMello/Inouye).**

**Item K-2: Enforcement File No. HA-04-21, Regarding Alleged Unauthorized Grading and Grubbing, Unauthorized Storage of Construction Equipment (Rock Boulders, Concrete Boulders, Gravel) and Unauthorized Dirt Road Construction on State-owned Land (Waahila Ridge State Park TMK: (1) 3-4-010:003 by Bernard Bays, 1601 Ruth Place, Honolulu, Hawaii 96816.**

Mr. Lemmo pointed out the subject unauthorized violations took place at Waahila Ridge State Park, which is located at the top of Saint Louis Drive. On December 15, 2003 a site inspection was conducted and staff noticed the following: 1) a rock and concrete boulders place on the makai and mauka side of the roadway; 2) a second pile of rock boulders located on the hill slope; 3) a yellow bobcat located on the hill slope; 4) Unauthorized grubbing and grading and 5) a dirt access road cut into the hillside down to the alleged's parcel. All of these uses occurred on State owned land. A Notice and Order to cease and desist the activity on the parkland was issued to Mr. Bays. Mr. Lemmo recommended the Board find the landowner in violation of Chapter 183C HRS and Chapter 13-5 HAR and subject to the conditions listed in staff's submittal.

Bernie Bays the landowner came forward to testify. He apologized to the Board for the violations that have occurred. Mr. Bays told the Board the rocks were to be stored at the subject site for two or three days then be transported to his property but due to the amount of rain the rocks were there for a longer period of time. As for the unauthorized construction of a road, Mr. Bays made it be known due to the wet weather conditions, the wheels from the bobcat made it seem as if a road was constructed. Mr. Bays also assured the Board no grubbing or grading occurred on the subject state owned parcel. Mr. Bays acknowledged removing the rocks after a cease and desist order was given to him. He also indicated after the rain stopped and the rocks were removed he hired a landscaper to re-landscape the areas destroyed by the heavy equipment. He also did extra penance by cleaning up the entrance of the park of trash, car parts and gravel.

**Unanimously approved as submitted (Inouye/Johns).**

**Item C-4: Modification of Governor's Proclamation Designating the Kealia Forest Reserve.**

Mr. Conry reminded the Board at the July 9, 2004, Board meeting, DOFAW requested that TMK: 4-7-01:001 be withdrawn from the Kealia Forest Reserve. At that meeting staff erroneously indicated the subject parcel was never surrendered to the State. It has since been discovered that the subject property was formally surrendered to the State in 1944 for a period of twenty years from 1944 to 1964. At present Cornerstone Hawaii Holdings, LLC has asked the Board to reaffirm their request that the subject property be removed from the Kealia Forest Reserve. Mr. Conry stated HRS § 183-15 "provides that private lands may be surrendered at any time for a term of not less than 20 years, or forever. The landowner can be encouraged to participate in surrender agreements

through exempting surrendered properties from property taxes so long as the land remains under exclusive control of the government as a forest reserve.” He indicated one issue that has been raised is whether this action will enable the landowner to more easily petition to have the parcel changed from the state conservation district to another state land use district. Although it is the State Land Use Commission that has the authority to change the land use designation, the department would urge that any change in state land use district undergo a thorough review process to protect important natural resource values. In closing Mr. Conry recommended the Board reaffirm its decision at the July 9, 2004 Board meeting to approve the request of Cornerstone Holdings LLC to remove TMK: 4-7-01:001 from the Kealia Forest Reserve and authorize the Chairperson to process a request to the Governor to modify the 1920 Governor’s Proclamation to remove the parcel from designation as Forest Reserve status.

Lee Sichter, principal planner with Belt Collins Hawaii testified before the Board. Mr. Sichter handed the Board a document, which stated his client’s position on this matter before the Board today. Mr. Sichter pointed out in 1906 the character of the forest reserve was for the protection of water resources by ensure water was available to the agricultural areas. He went on to say over the years there were several actions that changed the boundary of the Kealia Forest Reserve. In four of these instances lands from the Kealia Forest Reserve were withdrawn for agricultural use because they were deemed unsuitable. Mr. Sichter believes before lands are taken out of the forest reserve the Department should develop some type of criteria for their removal. He disclosed his client intends to use the subject lands for agricultural purposes. In closing Mr. Sichter reminded the Board his client has not surrendered the subject parcel to become a part of the Kealia Forest Reserve and he has no intention of entering into a surrender agreement with the Department.

**Unanimously approved as submitted (Agor/Inouye).**

**Item C-3: Report of Resolution Attempts by The Nature Conservancy (applicant) and Ms. Grambusch (petitioner) re: Contest Case Petition regarding Conservation District Use Application for East Molokai Watershed Partnership Fence Extension, TMKs (2) 5-4-003-026: (2) 5-4-003-001; (2) 5-5-001-013: and (2) 5-5-001-015.**

Mr. Kennedy made it known staff has met with Ms. Grambusch and has not been able to come to a resolution. Mr. Kennedy presented the Board with a handout, which detailed what transpired in their meeting. He noted a lot of Ms. Grambusch’s concerns dealt with the public process the department must go through. She asked staff for an additional forty-five days to “consider things.” Mr. Kennedy told the Board on July 19, 2004, Ms. Grambusch was given an agreement drafted by staff but she has yet to act on it. Mr. Kennedy recommended the Board proceed with the approved recommendations of the 6/4/04 Board submittal which recommended the Board waive the Petitioner’s failure to file a written request for a contested case hearing within 10 days of the public hearing, authorize the appointment of a Hearing Officer to conduct all the hearings relevant to the

subject petition and delegate the authority for section of the Hearing Officer to the Chairperson.

Kathy Tachibana of the Nature Conservancy informed the Board of the proposed work that would be done as part of the East Molokai Watershed Partnership Fence Extension. She noted there was strong public support for this project and currently funds are available to proceed with the project. She let it be known a crew has been scheduled for this job and they are ready to start at any time. The crew for this job is ready to go. Ms. Tachibana noted that Ms. Grambusch had concerns as to not being properly notified of the public notice process and secondly she felt the Environmental Assessment (EA) did not address all of her questions. Ms. Tachibana let it be known they have complied with section 343 with regards to public notice and she feels the EA does answer all of Ms. Grambusch's concerns. In closing Ms. Tachibana noted her agreement with staff's recommendation in hopes of moving the process along.

**Unanimously approved as submitted (Yamamura/Johns).**

**Item D-1: Amendment to General Lease No. S-4212, Western Apartment Supply & Maintenance Co., to change the Rental Payment Frequency from Semi-Annual to Monthly, Kamaole, Kihei, Wailuku, Maui, TMK: (2) 3-9-04:29.**

Member Yamamura recused himself.

Ms. Mamiya communicated that the lessee is currently going through bankruptcy proceedings and has previously asked the bankruptcy court to allow them to make monthly rent installments but their request was denied. The bankruptcy court did allow the applicant to pay their performance bond in forty-eight monthly installments. Ms. Mamiya feels the Board should deny the request before them as the State does not have security to protect itself as a performance bond paid in full is not in place. Ms. Mamiya recommended the Board deny the applicant's request to amend the Lease rent payment frequency from semi-annual to monthly.

Member Inouye left the meeting.

Gerald Gubbin, bankruptcy counsel for Western Apartment Supply and Maintenance Co. explained to the Board the added protection given to the State since his client is going through bankruptcy proceedings. He told the Board they have creditors ready to step in if needed should his client be unable to pay the monthly performance bond or rent. Mr. Gubbin told the Board by allowing his client to pay monthly rental payments it would be more consistent with modern business practices. He made it know his client hopes to be out of bankruptcy proceeding by either January or February at the latest.

**Approved as submitted (Johns/Agor).**

**Item D-8: Rescind Prior Board Action of December 15, 1995, Agenda Item F-10, and Approve Issuance of Direct Lease to Windward Retreat Center for Religious, Social and Charitable Eleemosynary Purposes, Kaaawa, Koolauloa, Oahu, TMK: (1) 5-1-14: por. 47 and 5-1-11: por. 55.**

**Motion to Defer**

**Approved to defer by the remaining Board members (Johns/Yamamura).**

**Item C-2: Request for Approval to Release for Public Review the Draft Safe Harbor Agreement with Chevron Hawaii Refinery and Accompanying Incidental Take License.**

**Approved as submitted by the remaining Board members (Johns/Yamamura).**

**Item D-2: Grant of Perpetual, Non-Exclusive Easement to the County of Maui, Department of Water Supply for Waterline and Pressure Break Tank Purposes, together with Immediate Right of Entry for Construction Purposes, Kamaole, Kula, Makawao, Maui, TMK: (2) 2-2-001: pors. 04 and 51, and 2-2-02: por. 08.**

**Item D-3: Grant of Term, Non-Exclusive Easement to Lloyd T. Ishikawa and Kaneshiro & Sons Enterprise, Limited, for Encroachment Purposes, Ponahawai, South Hilo, Hawaii, TMK: (3) 2-3-10:01.**

**Item D-5: Amend Prior Board Action of September 27, 1996, Item D-3, Direct Sale of Utility Easement to Verizon Hawaii Inc. (formerly GTE Hawaiian Telephone Company Incorporated) for a Portion of a Fiber Optic Telecommunications System that will be attached to Existing Hawaii Electric Light Company, Inc. (HELCO) Overhead Pole Lines that Affects State Owned Lands within TMK: (3) 2-5-01:06; 2-5-02:14; 2-6-18:01 & 04; 4-4-15:02, 04 & 08; 4-4-16:03 & 05, North and South Hilo, & Hamakua, Hawaii.**

**Item D-7: Amendment of General Lease S-5242 and Consent to Mortgage General Lease S-54-242; The ARC in Hawaii; Manana-Uka, Ewa,Oahu, TMK: (1) 9-7-094:028.**

**Item D-9: Issuance of Revocable Permit to Paulette Tau-a, Puolua-Hanehoi, Hamakualoa, Makawao, Maui, TMK: (2) 2-9-008:por. 018.**

**Item D-10: Issuance of Revocable Permit to Door of Faith Church and Bible School, Puolua-Hanehoi, Hamakualoa, Makawao, Maui, TMK: (2) 2-9-008: por. 018.**

**Approved as amended by the remaining Board members (Johns/DeMello).**

There being no further business, Chairperson Young adjourned the meeting at 1:30 a.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Terry Crowell

Approved for submittal:

---

PETER T. YOUNG  
Chairperson  
Department of Land and Natural Resources